

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 501 of 2003()

CRA.868/2001 of II ADDL.SESIONS COURT, ERNAKULAM
CC.852/1999 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

REVN. PETITIONER: 3RD APPNT. IN CRA.868/01/3RD ACCUSED IN CC.852/99

MRS.CICILY IGNATIOUS,FORMERLY WORKING AS
GENERAL MANAGER, M/S.PALAMUTTAM CHITTIES (P) LTD.,
ADMINISTRATIVE OFFICE, AMBADI BUILDING, XL/6928,
AMBADI BUILDING, EKM.,KOCHI HAVING PRESENT ADDRESS
AT DOOR NO.52/1108,KATTIPARAMBIL(H),FR.MULAVARIKAL
ROAD, KONTHURUTHY, THEVARA, ERNAKULAM, KOCHI-16.

BY ADV. SRI.T.O.XAVIER

RESPONDENTS: 1ST RES./APPL.1&2 IN CRA.868/01/COM./ACCUSED 1&2

1. MEERA O KHONA 14-3/D, SHERIN MANZIL,
CHULLIKKAL, KOCHI-5 REPRESENTED BY HER BROTHER
AND POWER OF ATTORNEY HOLDER KANTILAL O KHONA,
14-3/D, SHERIN MANZIL, CHULLIKKAL, KOCHI-5.
2. M/S. PALAMUTTAM CHITTIES (P) LIMITED,
ADMINISTRATIVE OFFICE, AMBADI BUILDING XL/6928,
AMBADI BUILDING, ERNAKULAM, KOCHI-35.
3. A.ABDUL MAJEED RAWTHER, PALAMUTTAM
BUILDING, THEVARA, ERNAKULAM, KOCHI-13.
4. STATE OF KERALA, REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.P.M.MUHAMMED RAHAZ
SRI.C.SANKUNNY
PUBLIC PROSECUTOR SRI.C.K.URESH.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 01/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Crl.R.P.Nos. 501 & 715/2003

Dated this the 1st day of December, 2007.

ORDER

These two revision petitions which are at the instance of the accused, are being disposed of through this common order, since they arise from the same judgment of the appellate court.

2. Petitioners were tried for an offence punishable under Section 138 of the Negotiable Instruments Act in C.C.No.852/1999 on the file of the Judicial Magistrate of First Class, No.II, Kochi. Accused No.1 which is a Company had been conducting chitties. Accused Nos. 2 and 3 were the Managing Director and General Manager of the Company respectively of the Company. The case of the complainant before the trial court was that she had subscribed to a chitty conducted by accused No.1 and paid the entire instalments due under the said chitty transaction. The accused had issued a cheque for Rs.23,250/- in discharge of the liability in connection with the chitty. The said cheque dated August 23, 1999, when presented for encashment, was dishonoured with the endorsement “payment stopped by the drawer”. Though a statutory notice was issued by the complainant, the accused had not discharged the liability. They had not even sent a reply. Hence the complaint.

3. The Power of Attorney Holder of the complainant was examined as Pw.1 and Exts.P1 to P11 were marked on his side. There was no oral or documentary evidence on the side of the

accused. Learned Magistrate, after an elaborate consideration of the oral and documentary evidence on record, found that the prosecution had succeeded in proving the charge against the accused. Accordingly they were found guilty under Section 138 of the Act and were accordingly convicted and sentenced. Accused Nos. 2 and 3 were directed to suffer simple imprisonment for 3 months each. Accused No.2, the Managing Director was further directed to pay an amount of Rs.28,000/= as compensation under Section 357(3) of the Code, out of which the complainant was directed to be paid a sum of Rs.25,000/-. The above order of conviction and sentence was challenged by the petitioners in appeal before the Sessions Court. Learned Sessions Judge after re-evaluating the oral and documentary evidence confirmed the order of conviction and substantive sentence of imprisonment. However the amount of compensation was reduced to Rs.23,500/=.

4. Learned counsel for the petitioners submitted before me that she had no instruction from the petitioners. Nevertheless I have carefully perused the entire materials on record and I have heard learned counsel for the complainant also. The courts below have concurrently found the petitioners guilty, and in my view justifiably. I do not find any material illegality or irregularity in the concurrent findings entered by the courts below.

There is no merit in the revision petitions. They are accordingly dismissed.

A.K. Basheer
Judge.

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